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NEW JERSEY BOARD OF
VETERINARY MEDICAL EXAMINERS
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STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF VETERINARY MEDICAL EXAMINERS

IN THE MATTER OF

ROBERT H. BENDE, D.V.M.

TO PRACTICE VETERINARY MEDICINE
IN THE STATE OF NEW JERSEY

Administrative Action

CONSENT ORDER

This matter was opened to the State Board of Veterinary Medical Examiners (hereinafter referred to as the "Board") following the Board's review of a consumer complaint filed by Boyka Karadjova following her visit with her pet to Robert H. Bende, D.V.M. In her complaint to the Board, Ms. Karadjova alleged that the respondent, Dr. Bende, engaged in, among other contentions, negligence and professional misconduct in the treatment of her two (2) year old Pekinese dog, "Lorenzo," in November 2006.

The Board's review of this matter revealed that Lorenzo was presented to the Animal Welfare Association ("Hospital") by his owner, Ms. Karadjova, on November 20, 2006 for a castration involving a retained testicle. Respondent, Dr. Bende is a New Jersey licensed veterinarian who performed the procedure at the Hospital.

The surgery was performed in the morning of November 20, 2006. When Ms. Karadjova arrived to pick up her dog in the afternoon, she requested a copy of the dog's medical records for his treating veterinarian. She maintains she was advised that the Hospital "did not keep medical records." The owner instructed the technician to write down what had been done to Lorenzo and what was to be expected on the home care sheet. Ms. Karadjova took Lorenzo home where he vomited repeatedly throughout the night and was not interested in food or water. The next morning, the dog drank a little water but did not urinate. The dog continued to vomit during the day. The owner became concerned and called the emergency number for the Hospital. She was instructed to put maple syrup on the dog's tongue. However, as she insisted that Lorenzo was very ill, she was given an appointment at the Hospital.

Upon arriving at the Hospital on November 21st, Lorenzo was admitted for observation. Ms. Karadjova was advised that, although the dog showed improvement, it was recommended that he stay overnight at the Hospital for observation. The owner visited

Lorenzo at 5:00 p.m. that evening and stayed with the dog until 7:00 p.m. She contends that she expressed her concerns to the attending technician that Lorenzo's condition was deteriorating.

Later that evening, Ms. Karadjova received a telephone call which advised her that Lorenzo had passed away, around 11:00 P.M. Ms. Karadjova arranged for the performance of a necropsy which found that the dog died due to either an obstruction to the outflow of urine from the bladder resulting in acute renal failure and shock, or an interference with blood supply to the bladder leading to necrosis, sepsis and shock or a combination of these events.

In correspondence dated March 8, 2007 to the Board, Dr. Bende advised that the castration was a difficult procedure due to the fact that the testicle was adhered to the neck of the bladder. He maintained that he performed this procedure to the best of his ability and that the surgery was necessary in order to avoid future cancer problems. The respondent further advised that subsequent to the surgery, he informed the technician that he expected bruising and soreness as a result of the difficult surgery and directed that the technician provide this information to the owner. Additionally, Dr. Bende advised that he received one telephone call, between 10:30 and 11:00 a.m. on November 21, 2006, concerning Lorenzo and his condition. He was told that the dog was slightly depressed but up and walking. He further conceded that he was told

of the owner's reports that the dog had not urinated since the surgery and that he was not eating but repeatedly vomiting. Dr. Bende maintained that he provided instructions to the technician; to administer Centrine by injection, Nutrical paste orally and subcutaneous fluids; and to monitor the dog during the day. However, the respondent admits that he neither called the Hospital to check on Lorenzo's condition nor did he receive any more calls from the facility until he was informed of the dog's death.

Dr. Bende further asserted that while he routinely relies on the experienced technicians at the Hospital for accurate veterinary assessments, he was actively working with the director of the Hospital to implement new protocols requiring patient evaluation by staff veterinarians or referrals to appropriate emergency clinics if staff veterinarians were unavailable, regardless of the experience level of the attending technician. Finally, the Board noted that, despite its request that the respondent provide it with medical records maintained relative to Lorenzo, Dr. Bende did not produce any medical records for the dog. Rather, he submitted documents prepared by the attending veterinary technicians.

The Board, following its review of the relevant documents in this matter, found that Dr. Bende violated its patient record regulation by failing to create and maintain medical records for Lorenzo, contrary to N.J.S.A. 45:1-21(h) and N.J.A.C. 13:44-4.9(a).

Specifically, N.J.A.C. 13:44-4.9 requires veterinarians to maintain a separate patient record for each animal, herd or flock. Additionally, the regulation mandates that all patient records accurately reflect the treatment or services rendered by the licensee. The respondent was unable to produce surgical notes, other records, including medications administered for Lorenzo's surgery. The Board finds that the creation of medical records is required for all patients regardless of the location of patient treatment. The Board concludes that these facts as detailed above establish a basis for disciplinary action.

The parties desiring to resolve this matter without the need for further disciplinary proceedings; and the respondent acknowledging and not contesting the findings of the Board and waiving his rights to a hearing in this matter; and the Board having been satisfied that the within resolution adequately protects the public health, safety and welfare, and for good cause shown:

IT IS, THEREFORE, ON THIS DAY OF
FEBRUARY 2011, ORDERED THAT:

1. The respondent, Robert H. Bende, D.V.M., shall cease and desist from further violations of N.J.S.A. 45:1-21(h) and N.J.A.C. 13:44-4.9.

2. Dr. Bende shall pay a civil penalty in the aggregate amount of \$2,500.00 for record keeping violations, contrary to

N.J.S.A. 45:1-21(h) and N.J.A.C. 13:44-4.9. Payment for the civil penalty shall be submitted contemporaneously with the signing of this Order, by certified check or money order, made payable to the State Board of Veterinary Medical Examiners and shall be forwarded to Leslie G. Aronson, Executive Director, Board of Veterinary Medical Examiners, 124 Halsey Street, Sixth Floor, Post Office Box 45020, Newark, New Jersey 07101. Subsequent violations will subject respondent to enhanced penalties subject to N.J.S.A. 45:1-25.

In the alternative, the respondent may pay the civil penalty, totaling **\$2,500.00**, in equal monthly installment payments of **\$104.00** for a total twenty-three (23) months. The twenty-fourth (24th) and final payment will total **\$108.00**. The first payment shall be paid simultaneously with submission of this Order with subsequent payments due on the fifteenth of each month thereafter until the total amount is paid in full.

Any failure to make any installment payment within ten (10) days of the due date shall cause the entire remaining balance to become immediately due and payable without further notice. Further, failure to pay the penalty within the time period allotted above will result in the filing of a Certificate of Debt, including the applicable interest permitted by the New Jersey Court Rules, and may result in subsequent disciplinary proceedings before the Board for failure to comply with an Order of the Board.

4. Failure to comply with any of the provisions of this Consent Order or remit any and all payments required by this Order will result in the filing of a certificate of debt and may result in subsequent disciplinary proceedings for failure to comply with an Order of the Board.

NEW JERSEY STATE BOARD OF
VETERINARY MEDICAL EXAMINERS

By: Mark W. Logan VMD
MARK W. LOGAN, V.M.D.
President

I have read and understand the within Consent Order and agree to be bound by its terms. Consent is hereby given to the Board to enter this Order.

Robert H. Bende DVM
ROBERT H. BENDE, D.V.M.

DATED: 2-13-11

Consent as to form and entry.

Joseph A. Breymeier
JOSEPH A. BREYMEIER, ESQUIRE
Naulty, Scaricamazza and McDevitt, LLC
Attorney for Robert H. Bende, D.V.M.

DATED: